

SEP 11 1990

"COPYRIGHT ROYALTY TRIBUNAL"

Before the  
COPYRIGHT ROYALTY TRIBUNAL  
Washington, D.C.

In the Matter of:

1989 Jukebox Royalty  
Distribution Proceeding

Docket No. 90-3-89JD

COMMENTS OF BROADCAST MUSIC, INC. AND SESAC, INC.  
IN SUPPORT OF MOTION OF THE AMERICAN SOCIETY OF COMPOSERS  
AUTHORS AND PUBLISHERS TO DISMISS CLAIM OF CARL K. DEMONBRUN

Broadcast Music, Inc. ("BMI") and SESAC, Inc. ("SESAC") hereby submit these comments in support of the motion filed by the American Society of Composers, Authors and Publishers ("ASCAP") concurrently herewith to dismiss the claim of Carl K. DeMonbrun to 1989 jukebox royalties. In support hereof, BMI and SESAC assert as follows:

1. BMI and SESAC are performing rights organizations entitled to distributions of the 1989 jukebox royalty fund pursuant to Section 116 of the Copyright Act, 17 U.S.C. § 116. BMI and SESAC have reached voluntary agreement with ASCAP, the sole remaining performing rights society, for the distribution of the royalty fund among the three organizations. With the exception of Carl DeMonbrun, all other claimants have withdrawn their claims.

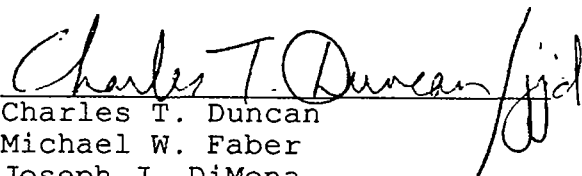
2. The Copyright Act provides compensation of performing rights organizations' members and affiliates through the

representation of the performing rights organizations, themselves. Permitting claims to be filed both by these organizations and their members or affiliates would be confusing and is contrary to the express terms of the statute. Accordingly, BMI and SESAC concur that Carl DeMonbrun's claim should be dismissed if the Tribunal determines that Mr. DeMonbrun was a member of ASCAP in 1989.

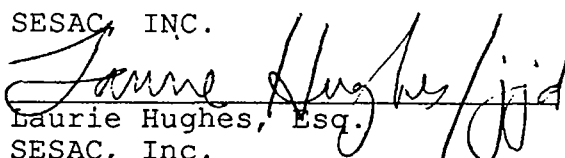
WHEREFORE, BMI and SESAC support the motion of ASCAP to dismiss the claim of Carl K. DeMonbrun in this proceeding.

Respectfully submitted,

BROADCAST MUSIC, INC.

  
Charles T. Duncan  
Michael W. Faber  
Joseph J. DiMona  
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Of Counsel:  
Edward W. Chapin

SESAC, INC.  
  
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55 Music Square East  
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September 11, 1990

CERTIFICATE OF SERVICE

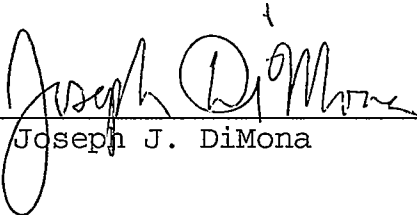
I hereby certify that I have served the foregoing "Comments of Broadcast Music, Inc. and SESAC, Inc." by first class mail, postage prepaid, on this 11th day of September, 1990 on the following:

Carl K. DeMonbrun  
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New York, New York 10116

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DIRECT DIAL NUMBER

September 12, 1990

Robert W. Cassler, Esq.  
General Counsel  
Copyright Royalty Tribunal  
1111 20th Street, N.W.  
Washington, D.C. 20036

Re: 1989 Jukebox Distribution Proceeding

Dear Bob:

Enclosed please find a copy of the "Comments of Broadcast Music, Inc. and SESAC, Inc. in Support of Motion of the American Society of Composers, Authors and Publishers to Dismiss Claim of Carl K. DeMonbrun" filed in the captioned proceeding on September 11, 1990, with a corrected certificate of service.

Sincerely,

  
Joseph J. DiMona

cc: Laurie Hughes